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MANUAL 500-2

SECTION 02.1

TRANSACTION ANALYSIS PROCESS

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

1. Purpose

The purpose of this procedure is to outline the review and approval process for a proposed use or disposal of real property that is under the jurisdiction of the New York State Thruway Authority (Authority). The purpose of the review and approval process is to determine: (a) whether the property is needed for Authority purposes; (b) the most appropriate transaction for the use or disposal of the property (that is, permit, lease or sale); (c) the conditions that affect the proposed use or disposal; and (d) if a competitive process is required for the transaction.

2. Applicable Law and/or Guidance

New York State Public Authorities Law, Article 2, Title 9, and Article 9, Title 5-A

New York State Finance Law §139-j, §139-k

21 NYCRR §106 Leasing of Facilities

Thruway Real Property Management Policy (25-6-02)

Executive Instruction entitled Code Of Ethics

Executive Instruction entitled Inappropriate Lobbying Influence In Authority/Corporation Procurements

Executive Instruction entitled Issuing A Work Permit For Preliminary Planning Purposes In Advance Of A Contemplated Occupancy Permit Or Disposal Of Real Property

3. Introduction

The Authority is responsible for the financing, construction, reconstruction, improvement, development, maintenance and operation of the highway system known as the Thruway. In accordance with the provisions of Article 2, Title 9 of the Public Authorities Law, the Authority has the power to (a) acquire and hold real property necessary for its corporate purposes and (b) dispose of real property not necessary for its corporate purposes or whenever the Authority Board shall determine that it is in the interest of the Authority and thus, the interest of the State.

Prior to carrying out a transaction, an analysis shall be conducted to determine whether the property is needed for Authority purposes, the best type of transaction to allow use or dispose of the property, and if a competitive process is required. The THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR) (TA-N5116)⁺ will be used to document this analysis and approval process and will be included in the Transaction Record. The process will also determine if a survey map or plot plan and/or an appraisal is required.

Note: Work permits are issued by Divisions and do not require completion of the TTAR. However, a detailed analysis should be conducted to ensure that a work permit is the appropriate transaction for the requested activity. For processing an inquiry for a work permit, see the SOP – WORK PERMITS (500-2-02.6).

Work permits shall not be issued in advance of a contemplated occupancy permit or disposal, unless approved by the Executive Director, except in those situations when preliminary planning work such as site inspections, surveys, environmental testings, soil borings, etc. is necessary for preparation of materials to be submitted as part of the application package for an occupancy permit or disposal. In all other instances, when a work permit is requested in advance of a contemplated occupancy permit or disposal, the Division Permit Coordinator (DPC) should consult with the Office of Real Property Management (ORPM) prior to taking any action.

Work permits may be issued for requests from governmental entities to occupy Authority property on a short term basis for transportation related projects. Such requests would include, but not be limited to, the use of Authority real property for storage, access and construction staging areas.

4. Procedure

4.1. Authority Initiated Disposals

The Authority may dispose of (e.g., by lease, sale, easement) certain real property for its corporate purposes. These are either properties (a) not presently required for Authority purposes but held for future use in carrying out its corporate purposes, (b) not necessary for its corporate purposes, or (c) which the Authority Board has determined that their disposal is in the interest of the Authority. The DPC/designee completes a TTAR to determine if the property is needed for Authority purposes and a review of the proposed use and a determination of the transaction will be completed as described in this procedure starting in Section 4.3.

⁺ Exhibit 1

4.2. Real Property Inquiries

- 4.2.1. Any Division employee who receives an inquiry regarding the issuance of permits or the disposal of real property under the jurisdiction of the Authority shall provide the information to the DPC/designee for review. The DPC/designee reviews the information and, as necessary, discusses the inquiry with the employee and/or the inquirer.
- 4.2.2. During the inquiry stage or anytime during the transaction analysis process, if an inquirer/applicant expresses an interest in a disposal for less than fair market value, the DPC/designee refers to DISPOSALS FOR LESS THAN FAIR MARKET VALUE⁺ and communicates to the inquirer/applicant the information that will eventually be required to be provided to the Authority Board for a less than fair market value transaction to be considered, including information that the inquirer/applicant will be required to provide.
- 4.2.3. Based upon the nature of the inquiry and the information provided, the DPC/designee, in consultation with the Division real estate staff or other appropriate personnel, sends the appropriate application package to the person/entity who has made the inquiry. In general, the following application forms will be sent:
 - A WORK PERMIT APPLICATION (TA-W41338) for inquiries regarding a revocable instrument that authorizes construction, maintenance, inspection, survey, or other type of work or short term activity on a site specific, identified portion of Authority property.
 - An OCCUPANCY PERMIT APPLICATION (TA-W41337) for inquiries regarding a revocable instrument that authorizes the use of a site specific, identified portion of Authority property.
 - A THRUWAY REAL PROPERTY APPLICATION (TA-W4415) for inquiries regarding sale, lease, easement, or other transfer of interest in real property, including information that the inquirer/applicant will be required to provide.

DPC/designee refers to the appropriate SOP for what is required in a complete application package, including supporting documentation, State Environmental Quality Review Act (SEQRA) requirements, etc., and processes the application in accordance with that SOP.

⁺ Exhibit 9

- 4.2.4. When the completed application, application fee and supporting documentation are received, a Real Property Reference Number/Occupancy Permit Number is assigned as follows:
- For Occupancy Permits, the Occupancy Permit Number is generated by PERMITS Plus when the application is entered into that database.
 - For Real Property Disposals, the DPC/designee assigns the Real Property Reference Number which is six (6) characters, beginning with a T (for Thruway), followed by a letter for the Division (A-Albany, B-Buffalo, N-New York, S-Syracuse), then the 2 digit year (12 - for 2012) and ending with a hyphenated, single-digit sequential number (the first number assigned in 2012 by the Albany Division would be TA12-1).
- 4.2.4.1. The Real Property Reference Number/Occupancy Permit Number is recorded on the TTAR and should be included on all subsequent correspondence associated with the transaction.
- 4.2.5. If a check is enclosed with the application, the DPC/designee records the check and other pertinent information on the REAL PROPERTY CHECK LOG (LOG) (TA-N5120-9) on the day of receipt. On that same day of receipt, the DPC/designee also:
- Completes the FIELD PAYMENT RECEIPT (RECEIPT) (TA-41341) and, if permit related, links the RECEIPT to PERMITS Plus; and
 - Makes two copies of the RECEIPT and sends one copy with the check attached to the Accounts Receivable Unit (ARU), and sends the other copy to the applicant.
- 4.2.6. ARU processes the fee and, if permit related, notes receipt of the fee in PERMITS Plus.
- 4.2.7. A Transaction Record must be created for each transaction and must contain a complete record of all documentation associated with a transaction. Transaction Records for both disposals and occupancy permits are created and kept in ORPM.
- 4.2.8. The DPC/designee completes a TTAR to determine if the property is needed for Authority purposes.

4.3. Providing Real Property Information

The DPC/designee considers all factors listed in Section II (Real Property Information) of the TTAR (and any other salient factors) in relation to the property. The DPC/designee provides information/descriptive explanations/concerns regarding each factor considered. For guidance in completing Section II of the TTAR, refer to TTAR SECTION II - CONSIDERATION FACTORS¹.

4.4. Review of Proposed Use

The DPC/designee then determines, in consultation with the Division real estate staff, if the property is needed for Authority purposes and whether there are conditions that affect the proposed use by considering the factors in Section III (Analysis) of the TTAR.

- 4.4.1. The first threshold question (number 1 on the TTAR) is whether the real property is needed for existing or future Authority purposes or whether the proposed use will interfere with maintenance and operations.
 - 4.4.1.1. If the real property is not needed for Authority purposes and does not interfere with the maintenance and operation of the Thruway, the DPC/designee checks the “No” box and continues with 4.4.2.
 - 4.4.1.2. If the real property is needed for Authority purposes but a permit or transfer of a partial interest (e.g., lease) is an option, then the DPC/designee checks the “Yes” box on question 1, provides an explanation in the Comments/Rationale field and continues with 4.4.2.
 - 4.4.1.3. If the real property is needed for Authority purposes and there are no alternative options for use, the DPC/designee checks the “Yes” box on question 1, provides an explanation in the Comments/Rationale field, completes Section IV of the TTAR, checking the “Application Rejected” box, then sends to the Division Director (DD) for review. The DD reviews, signs and dates the TTAR, sends the TTAR, along with the application and all supporting documentation (collectively the “TTAR Package”) to ORPM and keeps a copy for the Division file. ORPM then sends a REJECTION LETTER² notifying the applicant that the real property is needed for Authority purposes.

¹ Exhibit 2

² Exhibit 3

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- If the application was for a disposal, ORPM places the original TTAR Package and a copy of the letter in the Transaction Record and sends copies of the TTAR and letter to the DPC for the Division file. Procedure stops here.

OR

- For an Authority initiated disposal, ORPM places the original TTAR Package and a note in the Transaction Record and sends copies of the TTAR and note to the DPC for the Division file. Procedure stops here.

OR

- If the application was for an occupancy permit, ORPM places the original TTAR Package and a copy of the letter in the Transaction Record and sends copies of the TTAR and letter to the DPC for the Division file. DPC/designee updates the PERMITS Plus file status. Procedure stops here.

4.4.2. The DPC/designee then considers the remaining factors listed in Section III (Analysis) of the TTAR to determine if there are conditions that affect the proposed use of the property.

4.4.2.1. If there are no conditions that affect the proposed use of the property, the process continues with 4.5.

4.4.2.2. If it is determined that the proposed use is not permissible based on site conditions and these cannot be mitigated, the DPC/designee completes Section IV of the TTAR, checking the “Application Rejected” box, then sends it to the DD for review. The DD reviews, signs and dates the TTAR, sends the TTAR Package to ORPM and keeps a copy for the Division file. ORPM sends a REJECTION LETTER⁺ notifying the applicant that the proposed use is not permissible. Return to 4.4.1.3 and refer to bulleted items.

⁺ Exhibit 3

4.5. Determining the Best Real Property Transaction

- 4.5.1. Once all factors have been considered, the DPC/designee makes a recommendation for the best transaction to allow use or dispose of the property. Transactions may include an occupancy permit or disposals (e.g., leases, sales). To provide guidance in determining which transaction type should be recommended, refer to CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE PROPOSED USE OR DISPOSAL OF REAL PROPERTY⁺.
- 4.5.2. The DPC/designee then recommends the transaction to be used by checking the appropriate boxes in Section IV of the TTAR then sends it to the DD for review. The DD reviews, signs and dates Section IV of the TTAR, and distributes the TTAR Package based on the recommended action as follows:
- 4.5.2.1. For recommended occupancy permits - sends to ORPM for review and approval and keeps a copy for the Division file. The process continues with 4.6.
- 4.5.2.2. For recommended disposals - sends to the Chief Engineer (CE) for review and concurrence and keeps a copy for the Division file. The process continues with 4.7.

Note: TTAR Packages should include, but not be limited to, the following supporting documentation:

- The TTAR and the OCCUPANCY PERMIT or THRUWAY REAL PROPERTY APPLICATION
- A location map that includes: (a) an aerial photograph overlaid with the applicable tax map and identifies the requested parcel; (b) identification of any landmarks such as bridges and labeled nearby roads; (c) identification of the adjacent owner(s)

⁺ Exhibit 4

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If necessary, include:

- USGS Quad map
- Copy of deed of applicant if adjacent owner
- Photographs of the property, if available

4.6. Occupancy Permit Review/Approval

- 4.6.1. ORPM reviews the TTAR Package and contacts the DD with any questions/concerns regarding the recommended action. ORPM either approves or disapproves the issuance of the permit and signs/dates Section VI.B. of the TTAR.
- 4.6.1.1. If disapproved, ORPM sends a REJECTION LETTER¹ notifying the applicant and places the original TTAR Package and copy of the letter in the Transaction Record and sends copies of the TTAR and letter to the DPC for the Division file. DPC/designee updates PERMITS Plus file status. Procedure stops here.
- 4.6.1.2. If approved, ORPM refers to CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT² and indicates whether a survey map or plot plan and/or an appraisal is required.
- 4.6.2. ORPM places the original TTAR Package in the Transaction Record, sends a copy of the TTAR to the DPC for the Division file and sends a copy of the TTAR to the Contracting Officer (CO) for informational purposes only. CO approval is not required for permits. Upon receipt of the approved TTAR, the DPC/designee follows the SOP – OCCUPANCY PERMITS (500-2-02.5) to progress the transaction.

¹ Exhibit 3

² Exhibit 5

4.7. Disposal Review/Approval

- 4.7.1. The CE reviews the TTAR Package and ensures that the real property is not needed for Authority purposes. The CE either concurs with or does not concur with the recommended disposal, checks the appropriate box, signs and dates Section V of the TTAR and sends the TTAR package to ORPM.
- 4.7.2. ORPM reviews the TTAR Package and contacts the DD with any questions/concerns regarding the recommended actions. ORPM either concurs with or does not concur with the recommended disposal or recommends an alternate disposal, and provides any comments regarding the recommended actions.
 - 4.7.2.1. If not concurring, ORPM signs, dates Section VI.C. of the TTAR and sends TTAR Package to the CO. The process continues with 4.7.6.
 - 4.7.2.2. If concurring, ORPM refers to CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT¹ and indicates whether a survey map or plot plan and/or an appraisal is required.
- 4.7.3. ORPM indicates if disposal should be progressed via a competitive or non-competitive process. See DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED².
 - 4.7.3.1. For a competitive process, also indicates the competitive process to be used (e.g., Invitation For Bid, auction, sealed bid, etc.). See DETERMINING COMPETITIVE OPTIONS³.

¹ Exhibit 5

² Exhibit 6

³ Exhibit 7

- 4.7.3.2. When it is determined that the disposal will be through negotiation, indicates that an Explanatory Statement may likely be required. See **CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED**¹.
- 4.7.4. Real property shall not be disposed of for less than fair market value except in limited circumstances as defined in **DISPOSALS FOR LESS THAN FAIR MARKET VALUE**². If it is anticipated that the disposal may be for less than fair market value, ORPM checks the appropriate box on the TTAR and ensures the applicant provides the necessary information so the Board can be provided with the information described in paragraph B of Exhibit 9. Before approving the disposal, the Board must consider the information provided and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose.
- 4.7.5. ORPM then signs, dates Section VI.C. of the TTAR and sends the TTAR Package to the CO with a copy of the TTAR to the Director of Maintenance and Operations for informational purposes only.
- 4.7.6. The CO reviews the TTAR Package and contacts ORPM and/or the DD with any questions/concerns.
- 4.7.6.1. Upon completion of the review, the CO either approves/disapproves the recommended disposal or may approve an alternate disposal.
- 4.7.6.2. The CO then signs, dates Section VII of the TTAR and returns the TTAR Package to ORPM.
- 4.7.7. ORPM places the original TTAR Package in the Transaction Record and sends a copy of the TTAR to the DPC for the Division file.

¹ Exhibit 8

² Exhibit 9

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- 4.7.7.1. If the disposal is disapproved, ORPM sends a REJECTION LETTER⁺ notifying the applicant, places a copy of the letter in the Transaction Record and sends a copy to the DPC for the Division file. For Authority initiated disposals, ORPM places a note in the Transaction Record and sends a copy to the DPC for the Division file. Procedure stops here.
- 4.7.7.2. If approved, ORPM notifies applicant that the transaction is being progressed and follows the appropriate SOP.

5. Complying with §139-j and §139-k of the State Finance Law (Lobbying Law)

Any contact (inquiry, etc.) made regarding real property subsequent to the first notice of a competitive process for disposal of such real property (solicitation, IFB, etc.) is subject to the Lobbying Law and must be recorded. See the Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN AUTHORITY/CORPORATION PROCUREMENTS. ORPM may be contacted with specific questions regarding the Executive Instruction and whether contacts need to be reported.

6. Conflicts of Interest

Authority employees may not have any interest or engage in any activity that would create or appear to create a conflict with the proper discharge of their public duties. If an employee feels they have an actual or potential conflict of interest relating to a real property transaction, the employee is required to contact the Legal Department or Joint Commission on Public Ethics as soon as he/she is aware of the potential or actual conflict. See the Executive Instruction entitled CODE OF ETHICS.

7. Responsibilities

Accounts Receivable Unit processes application fees.

Chief Engineer receives the TTAR Package for all disposals and for a disposal to progress, must concur that the real property is not needed for Authority purposes and recommend its disposal.

⁺ Exhibit 3

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Contracting Officer is responsible for the final review and approval/disapproval of all disposals of real property.

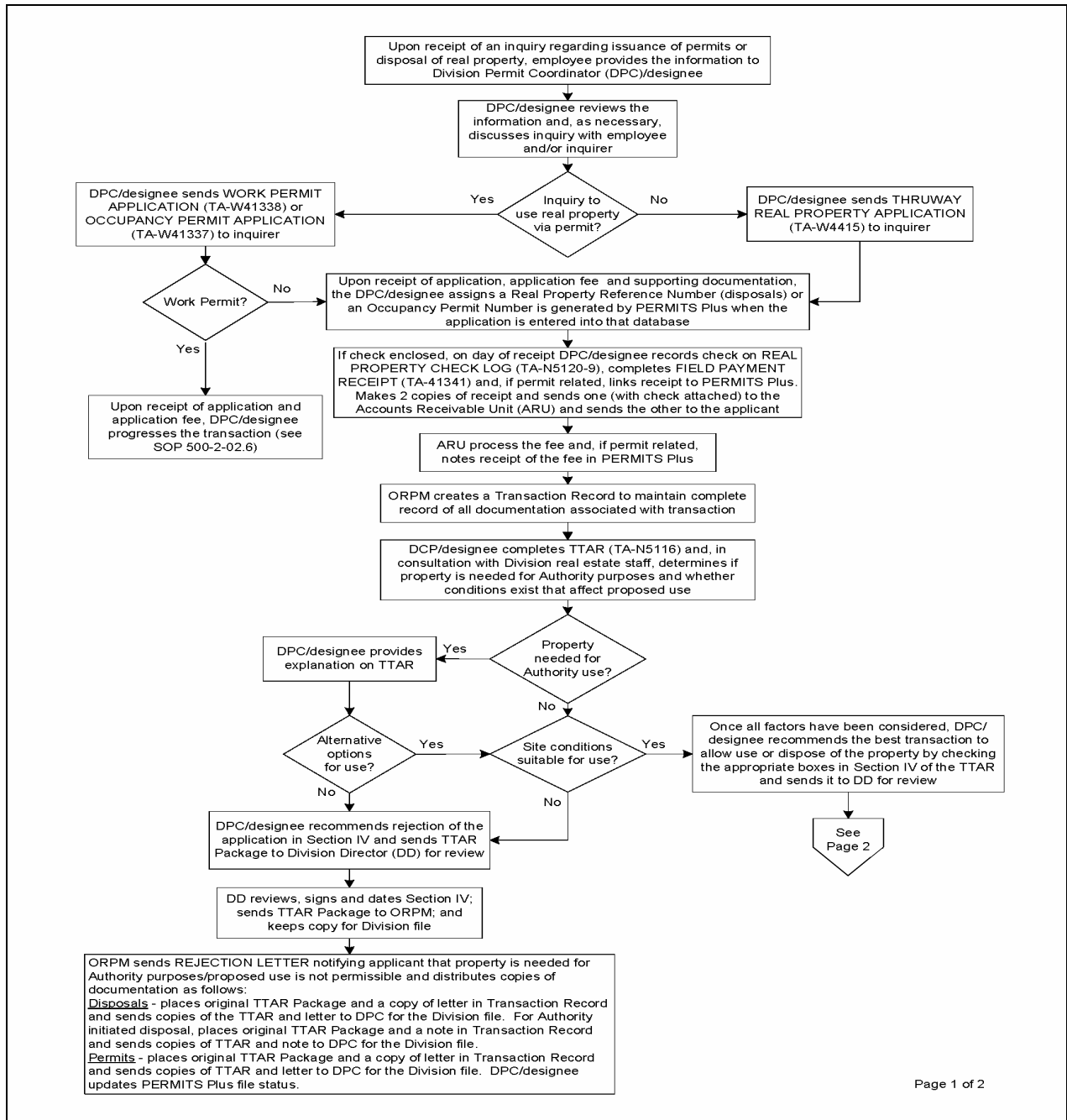
Division Director is responsible for reviewing the TTAR upon completion by the DPC, recommending an action and sending the completed TTAR to either the CE (for disposals) or ORPM (for occupancy permits).

Division Permit Coordinator is responsible for responding to initial inquiries regarding the use or the disposal of real property under the jurisdiction of the Authority and for sending the application package to the applicant. The DPC is also responsible for completing the TTAR upon receipt of a completed application.

Employees receiving inquiries regarding the issuance of permits or the disposal of real property under the jurisdiction of the Authority are responsible for sending the inquiry information to the DPC.

Office of Real Property Management is responsible for reviewing and approving the DD's recommendation and for disposals, obtaining the review/approval of the Contracting Officer. ORPM also determines: (a) whether a survey or plot plan and/or an appraisal is required; (b) if a disposal should be progressed via a competitive or a non-competitive process; (c) if competitive, the process to be used (e.g., IFB, auction, etc.); and (d) if negotiated, whether an Explanatory Statement is likely required. ORPM is also responsible for responding to applicants regarding the approval or rejection of proposed transactions. ORPM is responsible for creating and maintaining the Transaction Record for disposals and occupancy permits and for preparing all required Explanatory Statements. ORPM is responsible for providing the Authority Board and the public with information, required by statute, regarding less than fair market value disposals.

8. Flowchart



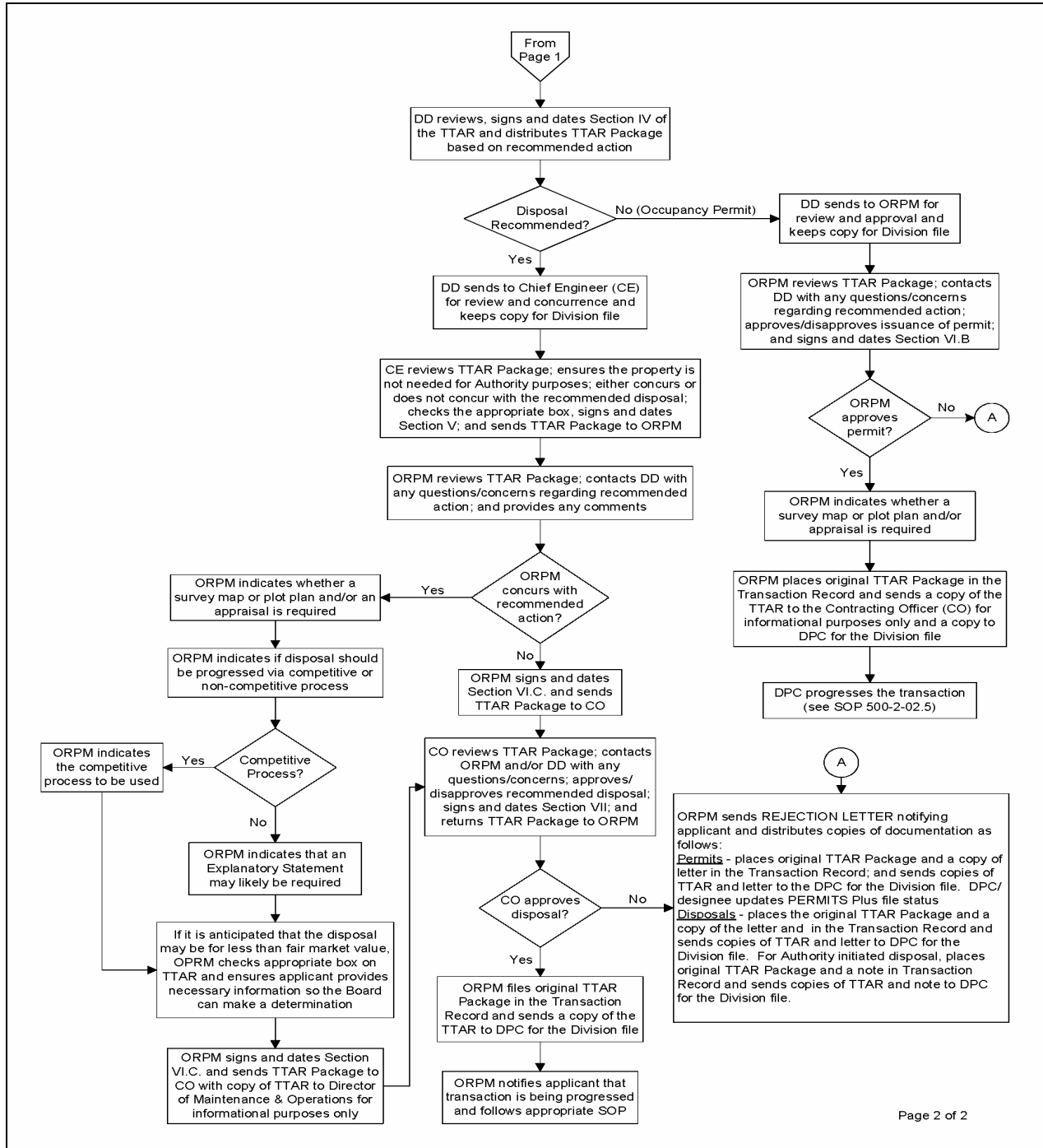


EXHIBIT 1
THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION
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THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR)
New York State Thruway Authority

[Clear Form](#)

Purpose: This form is used to document the analysis and approval process of a proposed Thruway Authority real property transaction.

INSTRUCTIONS:

- *Division Permit Coordinator (DPC)/Designee:* Complete Sections I through IV. Depending on the complexity of the proposed transaction, the Office of Real Property Management (ORPM) may be contacted to assist in the analysis.
- *Reviewers:* Complete Sections IV through VII.

Real Property Reference No. or Permit No.

Section I General Information

Division	Reviewer Name (Last, First, MI)	Title
Applicant Name		Phone No. () - -
Date of Review		
Street	City	State Zip Code

Section II Real Property Information

Review all consideration factors and provide a description in the space provided (for details about each factor, see SOP 500-2-02.1, Exhibit 2).

Consideration Factors	Description
1. Proposed length of use	
2. Area	
3. Location	
4. Access	
5. Proposed use	
6. Proposed improvements	
7. Current use	
8. Use of adjacent property	
9. Other factors	

EXHIBIT 1
THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION
 Page 2 of 4

TA-N5116 (01/2012) Page 2 of 4	THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR)	Real Property Reference No. or Permit No.												
Section III Analysis For any "Yes" answers, provide explanation and any options for mitigating concerns.														
Consideration Factors	Determination	Comments/Rationale												
1. Is the property needed for Thruway Authority existing or future purposes or will the proposed use interfere with Thruway maintenance and/or operations? (See SOP 500-2-02.1, Exhibit 4)	<input type="checkbox"/> Yes <input type="checkbox"/> No													
2. Based on the GIS Database, have any of the following concerns been identified: federal wetlands, state wetlands, flood plain, Thruway structures or any other concerns?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
3. Are there any known environmental concerns on or adjacent to the property?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
4. Are there any security or public safety issues?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
5. Is the proposed used, if known, incompatible with local zoning regulations on adjacent land?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
6. Do you expect to request an occupancy or work permit in advance of a disposal; or issuance of a work permit in advance of an occupancy permit? Additional authorizations may be required in accordance with the Real Property Management Policy and Executive Instruction 2006-19.	<input type="checkbox"/> Yes <input type="checkbox"/> No													
7. Are there any other governmental entities with a potential interest in the property (e.g., the Department of Transportation, or other State, county or local agencies, or regional planning, etc.) that need to be considered?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
8. Does the proposed transaction require approval by the Federal Highway Administration pursuant to Title 23 of the Code of Federal Regulations?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
9. Are there any State Historical Preservation Office concerns (i.e., archeological, historical or design)?	<input type="checkbox"/> Yes <input type="checkbox"/> No													
Section IV Division Recommendation A. DPC/Designee reviews Sections I through III. Based upon analysis of all factors, recommends actions by checking the appropriate boxes below (for assistance with recommending the transaction type see SOP 500-2-02.1, Exhibit 4). B. DPC/Designee submits TTAR along with all supporting documentation (collectively the TTAR Package) to Division Director (DD) for review of the recommended action. C. DD reviews, signs, dates and distributes TTAR Package based on the recommended action as follows: <ul style="list-style-type: none"> • For recommended rejection of application - sends TTAR Package to ORPM. • For recommended occupancy permit - sends TTAR Package to ORPM. • For recommended disposal - sends TTAR Package to Chief Engineer. 														
NOTE: A copy of the TTAR Package is kept for the Division file. <table style="width:100%; margin-top: 10px;"> <tr> <td style="width:33%;"><input type="checkbox"/> Application Rejected (provide explanation in Comments below)</td> <td style="width:33%;"><input type="checkbox"/> Occupancy Permit</td> <td style="width:33%;"><input type="checkbox"/> Disposal</td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/> Sale</td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/> Lease</td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/> Other _____</td> </tr> </table>			<input type="checkbox"/> Application Rejected (provide explanation in Comments below)	<input type="checkbox"/> Occupancy Permit	<input type="checkbox"/> Disposal			<input type="checkbox"/> Sale			<input type="checkbox"/> Lease			<input type="checkbox"/> Other _____
<input type="checkbox"/> Application Rejected (provide explanation in Comments below)	<input type="checkbox"/> Occupancy Permit	<input type="checkbox"/> Disposal												
		<input type="checkbox"/> Sale												
		<input type="checkbox"/> Lease												
		<input type="checkbox"/> Other _____												
Comments: _____ _____ _____ _____														
_____ Division Director		_____ Date												

EXHIBIT 1
 THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION
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TA-N5116 (01/2012) Page 3 of 4	THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR)	Real Property Reference No. or Permit No.
Section V Chief Engineer Disposal Concurrence Chief Engineer reviews and ensures that the real property is not needed for Authority purposes and then checks appropriate box below, signs and dates TTAR and sends TTAR Package to the ORPM.		
<input type="checkbox"/> I concur and hereby recommend that the proposed disposal shall not, in any respect, diminish or interfere with the Authority's ability to carry out its corporate purposes <input type="checkbox"/> I do not concur with the proposed disposal (provide explanation in Comments below)		
Comments: _____ _____ _____		
_____ Chief Engineer _____ Date		
Section VI Office of Real Property Management Permit Approval/Disposal Concurrence A. Recommended Rejection of Application: ORPM sends rejection letter to applicant and sends copy of TTAR and rejection letter to DPC for Division file. ORPM places original TTAR Package and copy of the rejection letter in the Transaction Record.		
B. Recommended Occupancy Permit: ORPM reviews, approves/disapproves by checking the appropriate box(es) below, and then signs and dates the TTAR. If disapproved, sends rejection letter to applicant and sends copy of TTAR and letter to the DPC for the Division file. If approved, sends copy of the TTAR to the DPC for the Division file and a copy to the Contracting Officer (CO) for informational purposes only (CO approval is not required for Permits). ORPM keeps original TTAR, copies of any letters and all supporting documentation in the Transaction Record.		
<input type="checkbox"/> Approve Occupancy Permit The following are required (See SOP 500-2-02.1, Exhibit 5):		
<input type="checkbox"/> Disapprove Occupancy Permit (provide explanation in Comments below) <input type="checkbox"/> Survey <input type="checkbox"/> Appraisal		
_____ or _____ <input type="checkbox"/> Plot Plan		
Comments: _____ _____ _____		
_____ Director of Real Property Management _____ Date		
C. Recommended Disposals: ORPM reviews, checks the appropriate box(es) below, and provides any comments. ORPM signs and dates the TTAR, sends the TTAR Package to the CO for review and approval, and sends a copy of TTAR to the Director of Maintenance and Operations for informational purposes only. Upon receipt of CO approval/disapproval, ORPM sends approval notification/rejection letter to applicant and returns a copy of TTAR and letter to the DPC for Division files. ORPM keeps original TTAR, copy of letter, and all supporting documentation in Transaction Record.		
<input type="checkbox"/> I concur with the recommended disposal The following are required (See SOP 500-2-02.1, Exhibit 5):		
_____ or _____ <input type="checkbox"/> Survey <input type="checkbox"/> Appraisal		
<input type="checkbox"/> I do not concur with the recommended disposal (provide explanation in Comments below) The following process is recommended (See SOP 500-2-02.1, Exhibits 6 and 7):		
_____ or _____ <input type="checkbox"/> Recommend for alternate disposal (provide explanation in Comments below)		
<input type="checkbox"/> Sale <input type="checkbox"/> Competitive Process <input type="checkbox"/> Non-Competitive Process		
<input type="checkbox"/> Lease <input type="checkbox"/> Invitation For Bid <input type="checkbox"/> Public Auction Without Publicly Advertising For Bids		
<input type="checkbox"/> Other _____ <input type="checkbox"/> Auction <input type="checkbox"/> Negotiation		
_____ <input type="checkbox"/> Explanatory Statement Likely Required (See SOP 500-2-02.1, Exhibit 8)		
Disposals for less than fair market value:		
<input type="checkbox"/> Board Notification Likely (See SOP 500-2-02.1, Exhibit 9)		
Comments: _____ _____ _____		
_____ Director of Real Property Management _____ Date		

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EXHIBIT 1
THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION
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TA-N5116 (01/2012) Page 4 of 4	THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR)	Real Property Reference No. or Permit No.
Section VII Contracting Officer Disposal Review/Approval		
A. CO reviews and approves/disapproves recommended disposal type. If disapproving, or approving an alternate disposal type, provides explanation in Comments below. If approving an alternate transaction type, indicates transaction type to be used.		
<input type="checkbox"/> Approved or <input type="checkbox"/> Disapproved or <input type="checkbox"/> Approved For Alternate Disposal Method		
Comments: <input type="checkbox"/> Sale <input type="checkbox"/> Lease <input type="checkbox"/> Other _____		
_____ _____ _____		
B. CO signs and dates below and returns TTAR Package to ORPM.		
_____ Contracting Officer		_____ Date

EXHIBIT 2
TTAR SECTION II - CONSIDERATION FACTORS

When making a use or disposal recommendation, the DPC must consider a number of factors regarding the proposed transaction and provide information to assist in making the final transaction determination. The following items correspond to consideration factors 1 – 9 listed in Section II of the TTAR. They provide a brief narrative explanation of what information should be provided when describing each factor.

1. Proposed length of use: Indicate how long the applicant proposes to use the Authority property. Indicate specifically if proposed use is greater than 3 years.
2. Area: Describe the size of the Authority real property (e.g., acreage, square footage) involved in the proposed transaction.
3. Location: Division, county, municipality, milepost, tax map parcel number.
4. Access: Describe what access is available to the real property (e.g., public access to a road, property landlocked, through adjoining owner, legal access, etc.).
5. Proposed use: Describe the primary use proposed (e.g., residential, commercial, industrial, municipal) and other factors related to property's use (e.g., assemblage with adjacent property, including property under the jurisdiction of the Authority, generation of revenue, etc.).
6. Proposed improvements: Describe any proposed improvements to be made to or placed on the property (e.g., storage tanks, structures, pavements, ground disturbances, including but not limited to, footings, foundations, slabs, etc.).
7. Current use: Describe the current use of the property (e.g., vacant, active permit/lease, easement(s), existing improvements, encroachment, etc.). If property is currently permitted/leased, provide any available details pertaining to existing agreement (term, annual fee/rent, etc.).
8. Use of adjacent property: Describe how adjacent property is used (e.g., residential, commercial, industrial, municipal) and other factors related to adjacent property's use that may impact recommendation (e.g., assemblage with proposed property and other property under the jurisdiction of the Authority, generation of revenue, etc.).
9. Other factors: Describe and provide details of other factors pertinent to the proposed use (e.g., known legal issues or disputes, title claims, etc.).

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EXHIBIT 3
SAMPLE REJECTION LETTER

ORPM sends letter when the application is rejected during the TTAR review process.

<insert date>

<insert name of applicant>
<insert address of applicant>

Re: <insert location and description of property>
Real Property Reference Number: <insert Real Property Reference Number> OR
Occupancy Permit Number: <insert Occupancy Permit Number>

Dear <insert name of applicant>:

Thank you for your interest in the property at the above referenced location. I regret to inform you that your request has been denied at this time, because <insert appropriate text based on one of the choices below>.

Should you have any questions, I can be reached at <insert phone number>.

Sincerely,

<insert Name>
<insert Title>
Office of Real Property Management
NYS Thruway Authority/Canal Corporation

cc: Division File

Option 1: the property is needed for future Thruway Authority purposes

Option 2: the Thruway Authority is not the owner of the property or the property is not under the jurisdiction of the Thruway Authority

Option 3: if neither of the above applies, insert specific details to explain the reason for the rejection

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EXHIBIT 4
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

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Once it has been determined that a proposed transaction can be progressed, and all factors that may affect the real property have been considered and described in Sections II and III of the TTAR, the DPC must make a recommendation for the proposed use or disposal of the real property in Section IV of the TTAR.

The first threshold question is whether the land is needed for current or future Authority purposes (e.g., is the land surplus?).

Surplus Authority real property is that real property, which in the opinion of the Authority, is or may become unnecessary for transportation, maintenance, reconstruction and/or development of the Thruway system.

In general, real property may not be deemed surplus if it includes the existing Highway, interchanges, maintenance facilities, tandem lots, or the highway clear zone or if they are needed for needed for any purpose related to fulfilling the Authority's obligations, either present or future, pursuant to Title 9 of the Public Authorities Law. This includes, but is not limited to, areas with any potential to be needed for use in future widening or realignment, reconstruction of interchanges, expansion of tandem lots, or the expansion or upgrade of the Thruway or Statewide communications infrastructure. In assessing these needs, consideration will be given to issues such as the need for constructing embankments, berms or barriers, flattening slopes, constructing stormwater detention basins, and installation of appropriate safety and security measures. When reviewing potential properties for surplus, consideration must be given to staging areas for future construction projects. Properties adjacent or in the vicinity of rock cuts should be evaluated for future use as disposal areas for future rock remediation work.

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EXHIBIT 4
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

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The following information provides guidance regarding the appropriate transaction type to be recommended for proposed use/disposal:

PERMITS

Occupancy Permits

Occupancy Permits should be the transaction type recommended for allowing use of any/all real property needed by the Authority (i.e., not surplus to the needs of the Authority).

Occupancy Permits, which are revocable upon demand, provide the Authority with the greatest flexibility for managing property under its jurisdiction. Therefore, in most cases, Occupancy Permits should be recommended whenever real property is needed for Authority purposes, or may be needed for Authority purposes in the future. Specifically, Occupancy Permits should be the recommended transaction for use of Authority real property when all or a portion of the real property applied for:

- has not been declared surplus to the Authority's needs, but can be used on a revocable basis;
- may need to be available for future Authority or public purposes;
- needs to be available upon demand for Authority purposes;

The existence of an encroachment or the ownership of a structure on real property needed for Authority purposes, while salient information and a consideration factor to be described, does not warrant a disposal or the granting of a real property interest via an alternate transaction (e.g., sale or lease).

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EXHIBIT 4
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

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Unless otherwise authorized by the Executive Director, where a disposal of real property surplus to the needs of the Authority is contemplated, an Occupancy Permit will not be issued in advance of completion of the Disposal.

DISPOSALS

The Authority may decide that certain categories of land are surplus to the Authority's needs (i.e., not needed for present or future Authority purposes) and may be disposed of. These are properties that are not necessary for Authority purposes and the disposition is in the best interest of the Authority. Disposals may be by sales, leases, easements, or other transfers of interest in the real property based on the nature of the proposed use.

When it is determined that real property under the jurisdiction of the Authority is not needed for Authority purposes, the preferred transaction to be used for disposal is a sale.

Disposals may be performed by the Commissioner of General Services on behalf of the Authority when the Authority has entered into an agreement with the Commissioner of General Services pursuant to the Public Authorities Accountability Act of 2005 and Public Authorities Law.

Sales

A sale is the preferred transaction type to be recommended when the real property is not needed for present or future Authority purposes.

Leases

A lease may be recommended under the following circumstances:

- the real property is needed for Authority purposes, but will be used for revenue generation;
- the real property is not needed for Authority purposes; and
the proposed use is for a longer term (e.g., over 3 years), but the applicant does not want to acquire the real property;

-or-

the property will be used by the applicant for revenue generation, but applicant does not want to acquire the real property.

EXHIBIT 4
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

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Easements

The Authority may acquire or dispose of permanent or temporary easements, exchange easements or release an easement. Acquisitions of easements would follow the same procedure as for acquisitions. Disposals of easements would follow the same procedure as for sales. Although the release of easements is not considered subject to the Public Authorities Accountability Act of 2005 (PAAA), these are always negotiated and follow the same process as a sale.

Transfers of Jurisdiction

Transfers of jurisdiction may be recommended when another State agency, authority or other State governmental interest requests real property under the jurisdiction of the Authority under the following circumstances:

- the real property is not needed for Authority purposes; and
- the request is for public health, safety or welfare reasons.

If the request for real property by another State agency, authority or State governmental interest is not for public health, safety or welfare reasons, the preferred transaction type is a sale.

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EXHIBIT 5
CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT
Page 1 of 2

SURVEY MAPS AND PLOT PLANS

A survey map prepared by an independent surveyor shall be required for any:

- Disposal of real property, including a sale, lease, and or an easement
- Conveyance of real property not defined as a disposal
- Acquisition of real property, except for real property associated with certain office-space leases where a non-surveyed description of the leased premises is deemed to be adequate by ORPM
- Transfer of jurisdiction

A plot plan shall be required to be submitted by an applicant for an occupancy permit and may be required for a work permit.

APPRAISALS

Authorized staff may conduct or coordinate procurement of appraisals for occupancy permits for which an appraisal is deemed by ORPM to be necessary.

The Authority shall utilize independent appraisers to conduct appraisals for the following transactions:

- Acquisitions
- Disposals
- Real property conveyances not defined as disposals
- Real property transactions, generally, regardless of value of the real property, when it is deemed to be in the best interest of the Authority as determined by the Contracting Officer

Except for permits, two independent appraisals shall be conducted if: (i) the appraised value of the real property is anticipated to be greater than \$300,000; or (ii) it is deemed to be in the best interest of the Authority as determined by the Contracting Officer.

EXHIBIT 5
CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT
Page 2 of 2

For transfers of jurisdiction, the Contracting Officer shall determine whether an appraisal is necessary. Such determination may be based upon the appraised value of the real property and/or the complexity of the appraisal assignment.

EXCHANGE OF PROPERTIES

- Where the transaction involves an exchange of property and the value of each property is anticipated to be \$300,000 or less, one survey map and one independent appraisal shall be required for each property.
- Where the transaction involves an exchange of property and the value of either property is anticipated to be greater than \$300,000, one survey map and two independent appraisals shall be required for the property with a value anticipated to be greater than \$300,000.
- In order to proceed with an exchange of property, the appraisals must demonstrate that the property to be acquired is of at least equal value to the property to be disposed of.

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EXHIBIT 6
DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED
Page 1 of 2

Based on the TTAR information, ORPM will determine whether a competitive process or non-competitive process is appropriate for the particular real property transaction.

The competitive processes for real property transactions involve publicly advertising for bids, such as IFB, or the auction process. Non-competitive processes include negotiations or an auction where there is no public advertising for bids.

Non-Competitive Process Determination

The Authority shall use a competitive process open to the public for all real property transactions, except in limited circumstances. Disposals and contracts for disposal may be negotiated or made by public auction without publicly advertising for bids only when one of the following conditions is met:

- The fair market value of the real property does not exceed \$15,000;
- Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- The Disposal will be to a state or any political subdivision and the estimated fair market value of the property and other satisfactory terms of Disposal are obtained by negotiation;
- Under those permitted circumstances set forth in Exhibit 9, DISPOSALS FOR LESS THAN FAIR MARKET VALUE; or
- Such action is otherwise authorized by law.

EXHIBIT 6
DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED
Page 2 of 2

Competitive Process Determination

When deciding whether a competitive process is appropriate, ORPM will consider the following factors:

- What is the estimated fair market value of the property? Fair market value may be determined through appraisals, the bid or auction process, or other means.
- What is the nature of the proposed project and what is the interest to be conveyed?
- Has the project already been bid? Were the bids reasonable?
- Who is the disposal to (e.g., State, political subdivision, private party, etc.)?
- Can fair market value be obtained through negotiations?
- Is the proposed use for public or private purposes?
- Does the disposal have a public health or safety factor?
- Would the project promote economic development (e.g., jobs, revenues, etc.)?
- Would the project provide public recreation or access opportunities?
- What are the site specific factors (e.g., character or condition of the property such as critical environmental area, presence of contamination restricting use, land locked, neighboring use, etc.)?
- Are other factors pertinent to the situation allowable by law?

EXHIBIT 7
DETERMINING COMPETITIVE OPTIONS

Once ORPM has determined that a competitive process is required, the method to use must be decided and documented on the TTAR by ORPM.

Practical factors for consideration when determining the most appropriate solicitation method include:

- What are the applicable legal requirements?
- Is an appraisal required before a solicitation method can be determined?
- What is the proposed timetable? Is it realistic and, if not, can it be modified? How time sensitive is it?
- Is there likely to be competition (i.e., multiple parties that are likely to respond)?
- Which method is the most cost effective?
- What are the benefits and disadvantages of the options for that transaction?
- Does the solicitation method help the Authority to achieve its mission?

Invitation for Bid (IFB)

An IFB is most typically used where requirements can be stated and an award made to the highest responsive and responsible bidder(s).

Auctions

An auction is a public sale in which property is sold to the highest bidder.

EXHIBIT 8
CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED

When it is determined that there will be no public advertising for bids and the disposal will be through negotiation, the following transactions require the submittal of an Explanatory Statement:

- Any real property that has an estimated fair market value in excess of \$100,000 except leases or exchanges described below;
- Any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of \$15,000;
- Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

EXHIBIT 9
DISPOSALS FOR LESS THAN FAIR MARKET VALUE
Page 1 of 3

A. CIRCUMSTANCES

No asset owned, leased or otherwise in the control of the Authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

1. The transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
2. The purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
3. In the event the Authority seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the Authority may effectuate such transfer.

EXHIBIT 9
DISPOSALS FOR LESS THAN FAIR MARKET VALUE
Page 2 of 3

B. REQUIRED BOARD INFORMATION

In the event a below fair market value asset transfer is proposed, the following information must be provided to the Authority Board and the public:

1. A full description of the asset;
2. An appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Authority Board;
3. *A description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
4. A statement of the value to be received compared to the fair market value;
5. *The names of any private parties participating in the transfer, and if different than the statement required by subparagraph (4) of this paragraph, a statement of the value to the private party;
6. The names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used;
7. *Why the transfer must be for less than fair market value; and whether there are any other reasonable alternatives to the proposed below fair market value transfer that would achieve the same purpose(s) of such transfer, including an explanation as to why: (i) the applicant does not have a financial alternative to a less than fair market value disposal; (ii) there is no other site available that could be acquired by the applicant that would achieve the same purpose(s); and (iii) there is no other entity willing to undertake the projects contemplated for the property proposed to be disposed of; and
8. How the proposed transfer fits within the purpose, mission or governing statute of the Authority (provided by staff for entities qualifying under A.2).

*This information must be provided by the applicant who expresses an interest in a disposal for less than fair market value.

EXHIBIT 9
DISPOSALS FOR LESS THAN FAIR MARKET VALUE
Page 3 of 3

C. WRITTEN DETERMINATION

Before approving the disposal of any property for less than fair market value, the Authority Board shall consider the information described in paragraph B above and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.